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To: Examiner J. Kavanaugh	FROM: Byron S. Kuzara
COMPANY: U.S.P.T.O.	DATE: January 5, 2005
FAX NUMBER: 703-872-9306	TOTAL NO. OF PAGES: 14
RE: U.S. Serial No. 10/633,361	OUR REFERENCE No.: 005127.85920

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NAME: Lesa Wolman **PHONE:** 503-425-6800

COMMENTS:

Attached is a Preliminary Amendment and Response to Restriction Requirement, for filing in the above-referenced application.

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I hereby certify that this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office at telephone number (703) 872-9306 on January 5, 2005.

Respectfully submitted,

By: B. S. Kuzan
Registration Number 51,255
Banner & Witcoff, Ltd.

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of)	
)	Group Art Unit: 3728
John F. SWIGART, et al.)	
)	Examiner: Kavanaugh, J.
Serial Number 10/633,361)	
)	Attorney Reference: 005127.85920
Filed: August 4, 2003)	
)	
For: FOOTWEAR SOLE STRUCTURE)	
INCORPORATING A CUSHIONING)	
COMPONENT)	

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Alexandria, VA 22313

Sir:

In response to the Restriction Requirement mailed December 23, 2004, the Applicants elect claims in Group II (drawn to footwear and component combination) and Species II (Figures 13-15) and respectfully submit that all claims are readable thereon. This election is made without traverse.

A Preliminary Amendment filed with this Response to Restriction Requirement amends claims 1-32 to recite an article of footwear. Accordingly, all claims pending in the application fall within Group II. In addition, a review of the claims indicates that all claims read upon Species II.

This Response To Restriction Requirement is being timely filed with a Preliminary Amendment by facsimile transmission on January 5, 2005. Should additional fees or an extension of time be deemed necessary for consideration of this Response To Restriction Requirement, such fees or extension are hereby requested and the Commissioner is authorized to charge deposit account number 19-0733 for the payment of the requisite fee. If anything further is desirable to place the application in even better form for allowance, the Examiner is respectfully requested to telephone the undersigned representative at (503) 425-6800.

Respectfully submitted,

By: B. S. K.
Byron S. Kuzara
Registration No. 51,255

Banner & Witcoff, Ltd.
1001 G Street, N.W.
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Dated: January 5, 2005

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In re Application of

John F. SWIGART, et al.

Serial Number 10/633,361

Filed: August 4, 2003

For: FOOTWEAR SOLE STRUCTURE
INCORPORATING A CUSHIONING
COMPONENT

)
) Group Art Unit: 3728

)
) Examiner: Kavanaugh, J.

)
) Attorney Reference: 005127.85920

PRELIMINARY AMENDMENT

Commissioner for Patents
Alexandria, VA 22313

Sir:

Prior to examination on the merits, please amend the above-captioned application as follows: